

Rule 32

Underlying Considerations

➤ Amount of Visitation Time Customarily Ordered.

- (1) **REASONS FOR DEVIATING FROM THE GUIDELINES.** Reasons for deviating from the guidelines may include, but are not limited to, the following:

(a) Shared physical custody or visitation rights providing for periods of physical custody or care of children by the obligor parent **substantially in excess of those customarily approved or ordered by the court;**

COMMENT(AS AMENDED TO CONFORM TO AMENDMENTS EFFECTIVE OCTOBER 4, 1993)

“Other assumptions incorporated in the Schedule of Basic Child Support Obligations include:

(1) **Tax exemptions.** The Schedule of Basic Child Support Obligations assumes that the custodial parent will take the federal and state income tax exemptions for the children in his or her custody;

(2) **Health care costs.** In respect to health care costs, the Schedule of Basic Child Support Obligations assumes unreimbursed medical costs of \$200 per family of four per year. These assumed costs include medical expenses not covered or reimbursed by health insurance or Medicaid or Medicare; and

(3) **Visitation.** The Schedule of Basic Child Support Obligations is premised on the assumption that the noncustodial parent will exercise customary visitation rights, including summer visitation. Any abatement of child support because of extraordinary visitation should be based on visitation in excess of customary visitation.”

➤ Formula: Deducts Pre-Existing Child Support.

“(B) Definitions.

(6) PREEXISTING CHILD-SUPPORT OBLIGATION. The amount of child support actually being paid by a parent pursuant to an order for child support of other children shall be deducted from that parent's “gross income.” If a parent is legally responsible for and is actually providing child support for other children, but not pursuant to an order of child support, a deduction for an “imputed preexisting child-support obligation” may be made from that parent's gross income. The imputed preexisting child-support obligation shall be that amount specified in the schedule of basic child-support obligations based on that parent's unadjusted gross income and the number of other children for whom that parent is legally responsible. “Other children” means children who are not the subject of the particular child-support determination being made. If the proceeding is one to modify an existing order of child support, no deduction should be made for other children born or adopted after the initial order of child support was entered, except for child support paid pursuant to another order of child support.”

“(C) Determination of recommended child-support obligation.

(1) BASIC CHILD-SUPPORT OBLIGATION. The basic child-support obligation shall be determined by using the schedule of basic child-support obligations. The category entitled “combined adjusted gross income” in the schedule means the combined monthly adjusted gross incomes of both parents. “Adjusted gross income” means gross income less preexisting child-support obligations, less preexisting periodic alimony actually paid by a parent to a former spouse. For combined adjusted gross-income amounts falling between amounts shown in the schedule, the lower value shall be used if the combined adjusted gross income falls less than halfway between the amounts shown in the schedule. Where the combined adjusted gross income falls halfway or more than halfway between two amounts, the higher value shall be used. The category entitled “number of children due support” in the schedule means children for whom the parents share joint legal responsibility and for whom child support is being sought.

The court may use its discretion in determining child support in circumstances where combined adjusted gross income is below the lowermost levels or exceeds the uppermost levels of the schedule.”



Formula: Deducts Pre-Existing Alimony.

“(C) Determination of recommended child-support obligation.”

(1) **BASIC CHILD-SUPPORT OBLIGATION.** The basic child-support obligation shall be determined by using the schedule of basic child-support obligations. The category entitled “combined adjusted gross income” in the schedule means the combined monthly adjusted gross incomes of both parents. “Adjusted gross income” means gross income less preexisting child-support obligations, less preexisting periodic alimony actually paid by a parent to a former spouse. For combined adjusted gross-income amounts falling between amounts shown in the schedule, the lower value shall be used if the combined adjusted gross income falls less than halfway between the amounts shown in the schedule. Where the combined adjusted gross income falls halfway or more than halfway between two amounts, the higher value shall be used. The category entitled “number of children due support” in the schedule means children for whom the parents share joint legal responsibility and for whom child support is being sought. The court may use its discretion in determining child support in circumstances where combined adjusted gross income is below the lowermost levels or exceeds the uppermost levels of the schedule.”



Formula: Limits Child Care Cost to Amount DHR Determines rather than actual cost.

“(B) Definitions.”

(8) **CHILD-CARE COSTS.** Child-care costs, incurred on behalf of the children because of employment or job search of either parent, shall be added to

the “basic child-support obligation.” Child-care costs shall not exceed the amount required to provide care from a licensed source for the children, based on a schedule of guidelines developed by the Alabama Department of Human Resources. Before the Alabama Department of Human Resources implements any revision to the schedule of child-care-cost guidelines, it shall provide the administrative director of courts (“the ADC”) a copy of the revised schedule. The ADC shall, as soon as reasonably practicable thereafter, disseminate the revised schedule to all circuit and district court judges and clerks and the Family Law Section of the Alabama State Bar. The clerk shall maintain the current schedule in his or her office, shall make it available for review, and shall provide copies of it on request, at the customary cost for copies of documents.”



Modification: 10% Rebuttable Presumption.

(3)MODIFICATIONS. The guidelines shall be used by the parties as the basis for periodic updates of child-support obligations.

(c)There shall be a rebuttable presumption that child support should be modified when the difference between the existing child-support order and the amount determined by application of these guidelines varies more than ten percent (10%), unless the variation is due to the fact that the existing child-support order resulted from a rebuttal of the guidelines and there has been no change in the circumstances that resulted in the rebuttal of the guidelines.



Others: